

**OFFICIAL FILE**  
**ILLINOIS COMMERCE COMMISSION** STATE OF ILLINOIS  
**ILLINOIS COMMERCE COMMISSION**

**ORIGINAL**

CENTRAL ILLINOIS PUBLIC SERVICE  
COMPANY d/b/a AmerenCIPS,

Complainant,

v.

COLES-MOULTRIE ELECTRIC  
COOPERATIVE, INC.,

Respondent.

Docket No: 03-0723

CHIEF CLERK'S OFFICE

2005 SEP 23 P 2:13

ILLINOIS  
COMMERCE COMMISSION

**JOINT STIPULATION AND MOTION FOR ENTRY OF ORDER**

CENTRAL ILLINOIS PUBLIC SERVICE COMPANY d/b/a AMEREN CIPS,  
Complainant/Counter-Respondent ("CIPS") and COLES-MOULTRIE ELECTRIC  
COOPERATIVE, INC. properly known as COLES-MOULTRIE ELECTRIC  
COOPERATIVE, Respondent/Counter-Complainant ("CMEC") stipulate and agree as  
follows:

1. On November 3, 2003, Coles-Moultrie Electric Cooperative ("CMEC")  
delivered to CIPS a purported notice ("Notice") pursuant to Section 7 of the Electric  
Supplier Act (220 ILCS 30/1 et seq) ("ESA") of its intent to provide electric service to "a  
commercial business park called Coles Centre Business Park . . . located in the southwest  
quadrant of the intersection of Illinois Route 16 and Lerna Road in Section 21, Township  
12 North, Range 8 East, of the Third Principal Meridian in Coles County, Illinois". See  
Compl. of Nov. 19, 2003, Ex. 1.

2. On November 19, 2003, CIPS filed a Complaint under the Electric  
Supplier Act 220 ILCS 30/1 et. seq. (the "Act") seeking the sole and exclusive right and

authority to furnish all electric requirements of Agracel, Inc. and/or Coles Centre Business Park which customer and premise is located in the southwest quadrant of the intersection of Illinois Route 16 and Lerna Road in Section 21, Township 12 North, Range 8 East of the Third Principal Meridian, Coles County, Illinois.

3. On February 19, 2004, CMEC filed an Answer to the Complaint by CIPS and further filed a Counter-Complaint seeking the sole and exclusive right to furnish all electric service requirements of Agracell, Inc. and/or the premises known as Coles Centre Business Park situated on the following described property:

The North One Half (N ½) of the Southwest Quarter (SW ¼) and the Northwest Quarter (NW ¼) of the Southeast Quarter (SE ¼) except those portions previously conveyed for public highway purposes all in Section Sixteen (16), Township Twelve (12) North, Range Eight (8) East of the Third Principal Meridian, more particularly described as follows:

Commencing at the Northeast corner of the Southeast Quarter (SE ¼) of said Section Sixteen (16); thence South 0 degrees 17'32" West (bearings based on F.A.I. Route 04 (I-57) R.O.W. plat) a distance of 1,331.09 feet along the East line of said Section Sixteen (16); thence South 88 degrees 16'20" West a distance of 1,329.10 feet to a point in the West right of way line of Lerna Road and the point of beginning; thence continue South 88 degrees 16'20" West a distance of 3,580.55 feet to a point in the East right of way line of F.A.I. Route 04 (I-57); thence North 04 degrees 25'49" East along said right of way line a distance of 234.86 feet; thence North 17 degrees 12'02" East along said right of way line a distance of 317.84 feet; thence North 47 degrees 55'25" East along said right of way line a distance of 404.60 feet; thence North 23 degrees 17'43" East along said right of way line a distance of 352.33 feet; thence North 73 degrees 03'10" East along the South right of way line of F.A. Rt. 17 (IL. RT. 16) a distance of 286.40 feet; thence North 86 degrees 24'38" East along said right of way line a distance of 500.62 feet; thence North 85 degrees 50'22" East along said right of way line a distance of 250.45 feet; thence North 89 degrees 16'21" East along said right of way line a distance of 1,923.01 feet; thence South 32 degrees 09'38" East along said right of way line a distance of 152.36 feet; thence South 00 degrees 29'12" East along the West right of way line of Lerna Road a distance of 317.39 feet; thence South 02 degrees 22'33" West along said right of way line a distance of 200.25 feet; thence South 00 degrees 29'12" East along said right of way line a distance of 300.00 feet; thence South 05 degrees 13'26" West along said right of way line a distance of 100.50 feet; thence South 05 degrees

03'38" East along said right of way line a distance of 136.00 feet to the point of beginning, containing 91.531 acres more or less.

And also,

The Southwest Quarter (SW ¼) of the Southeast Quarter (SE ¼) and a part of the Southeast Quarter (SE ¼) of the Southeast Quarter (SE ¼) and a part of the Southeast Quarter (SE ¼) of the Southwest Quarter (SW ¼) all in Section Sixteen (16), Township Twelve (12) North, Range Eight (8) East of the Third Principal Meridian, more particularly described as follows:

Commencing at the Northeast Corner of the Southeast Quarter (SE ¼) of said Section Sixteen (16); thence South 0 degrees 17'32" West (bearings based on F.A.I. Route 04 (I-57) R.O.W. plat) a distance of 1,331.09 feet along the East line of said Section Sixteen (16); thence South 88 degrees 16'20" West a distance of 1,329.10 feet to a point in the West right of way line of Lerna Road and the point of beginning; thence South 05 degrees 03'38" East along said West right of way line of Lerna Road a distance of 114.80 feet; thence South 00 degrees 29'12" East along said West right of way line of Lerna Road 1,218.21 feet to a point on the South line of said Section Sixteen (16); thence South 88 degrees 09'57" West along said South line of Section Sixteen (16) a distance of 1,875.50 feet; thence North 00 degrees 11'59" West a distance of 1,336.49 feet; thence North 88 degrees 16'20" East a distance of 1,859.57 feet to the point of beginning, containing 58.503 acres more or less.

For a total sum of 148.862 acres more or less, all situated in Lafayette Township, Coles County, Illinois.

and as more fully described on the plat attached hereto as Exhibit A and by reference incorporated herein and hereafter referred to as "the premises" or "Coles Centre Business Park".

4. On March 3, 2004, CIPS filed a Motion for Judgment on Count I of its Complaint asserting that the Section 7 notice provided by CMEC to CIPS with regard to the proposed electric service to the customer at "Coles Centre Business Park" was served prior to the time an electric service contract had been entered into between CMEC and the customer and therefore such Section 7 notice was premature.

5. On April 5, 2004, CMEC filed a Reply to CIPS' Motion.

6. On April 13, 2004, the Administrative Law Judge denied CIPS' Motion for Judgment on Count I of its complaint.

7. On January 11, 2005, CIPS filed a Motion to Reconsider the ruling on the Motion for Judgement

8. CMEC filed a responsive pleading on March 10, 2005. Attached to the response was a signed contract, dated March 9, 2005, between Coles-Moultrie and Agracel, Inc., requiring CMEC to provide electricity to Coles Centre.

9. CIPS filed a Reply on March 22, 2005

10. On June 1, 2005, the Administrative Law Judge served a proposed Order which, if entered, would grant CIPS' Motion for Judgment on Count I of the CIPS Complaint but order the proceedings to continue on the justiciable issue as to which of the two parties to this docket is the appropriate electric supplier to the customer at the "Coles Centre Business Park".

11. On August 17, 2005, the parties appeared, through counsel, at a status hearing and made an on the record representation that they had reached an agreement regarding the disposition of this matter, which would be achieved through the entry of a Joint Draft Order, affirming the Administrative Law Judges' proposed order on the purported Section 7 Notice served by CMEC and awarding the customer to CMEC, under the auspices of Section 2 of the ESA.

12. CIPS and CMEC stipulate and agree that, in the event the Administrative Law Judge, upon review of the Joint Draft Order attached hereto, determines it would be appropriate to recommend the entry of an Order substantially similar in all respects to the

Joint Draft Order, that the Administrative Law Judge mark this matter "Heard and Taken," and cause the an Order disposing of this matter to be placed upon a Commission agenda for adoption.

13. CIPS and CMEC hereby further stipulate and agree to the entry of an Order, substantially similar in all respects to the Joint Draft Order attached hereto, disposing of this matter by adopting the proposed ruling of the Administrative Law on CIPS' Motion for Judgment on Count I of its complaint and awarding the customer to CMEC, under the auspices of the Electric Supplier Act.

14. CIPS and CMEC further stipulate and agree that, in the event the Administrative Law Judge recommends that the Commission grant the Motion for Entry of Order and that thereafter the Commission enters an Order substantially similar in all respects to the Joint Draft Order attached hereto, the parties waive service of a Proposed Decision under Section 10-45 of the Illinois Administrative Procedures Act. (5 ILCS 100/10-45).

THEREFORE, premises considered, CIPS and CMEC hereby move the Administrative Law Judge assigned to this matter to cause this record to be marked "Heard and Taken."

FURTHER CIPS and CMEC hereby move the Illinois Commerce Commission to enter an Order both affirming the proposed ruling of the Administrative Law Judge on CIPS' Motion for Judgment on Count I of its complaint and determining that CMEC has the sole and exclusive right to furnish all electric service requirements for use by any customers at "the premises" known as "Coles Centre Business Park" as more specifically shown on the attached plat marked Exhibit A and by reference incorporated herein, all as

incorporated in a Joint Draft Order attached hereto.

**COLES-MOULTRIE ELECTRIC COOPERATIVE, INC., properly known as COLES-MOULTRIE ELECTRIC COOPERATIVE,  
Respondent/Counter-Complainant,**

By:   
M.L. Christman, Manager

**CENTRAL ILLINOIS PUBLIC SERVICE  
COMPANY d/b/a AMEREN CIPS,  
Complainant/Counter-Respondent,**

By:   
Jon Carls, Director  
Regulatory Services

State of Illinois )  
 ) ss  
County of Coles )

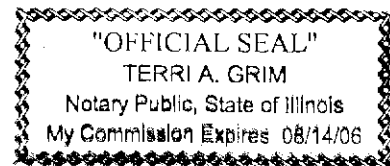
**M.L. CHRISTMAN**, being duly sworn upon his oath, deposes and states that he is the Manager for Respondent/Counter-Complainant, COLES-MOULTRIE ELECTRIC COOPERATIVE, INC., properly known as COLES-MOULTRIE ELECTRIC COOPERATIVE, and that he has read the foregoing JOINT STIPULATION by him subscribed, and that the same is true and in substance and in fact. \_\_\_\_\_

  
\_\_\_\_\_  
**M.L. CHRISTMAN**  
Manager

Subscribed and sworn before me this 14th day of September, 2005.

  
\_\_\_\_\_  
Notary Public



State of Illinois )  
 ) ss  
County of Sangamon )



**JON CARLS**, being duly sworn upon his oath, deposes and states that he is the Director, Regulatory Services of CENTRAL ILLINOIS PUBLIC SERVICE COMPANY d/b/a AMEREN CIPS, and that he has read the foregoing JOINT STIPULATION by him subscribed, and that the same is true and in substance and in fact. \_\_\_\_\_

  
\_\_\_\_\_  
**JON CARLS**  
Director, Regulatory Services

Subscribed and sworn before me this 22nd day of September, 2005.

  
\_\_\_\_\_  


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***PROOF OF SERVICE***

The undersigned hereby certifies that a copy of the foregoing ***Joint Stipulation*** was served upon:

Claudia Sainsot, Esq.  
Administrative Law Judge  
Illinois Commerce Commission  
160 North LaSalle, Suite C-800  
Chicago, IL 60601

Mr. Ron Linkenback  
Energy Department  
527 East Capitol  
Springfield, IL 62701

by enclosing the same in an envelope addressed to such attorney at his/her address as disclosed by the pleadings of record herein, with postage prepaid, and by depositing said envelope in a U.S. Post Office box in Springfield, Illinois, on this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

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